IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.987 OF 2006
IN
CRIMINAL APPEAL NO.810 OF 2006

Varun Virendra Vyas ...Applicant.
V/s.
The State of Maharashtra ...Respondent.

Shri Nitin Sejpal & Pooja Bhojane, advs. for the Applicant.

Shri Adsule, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 23rd January, 2007.

P.C.:

1. Heard Shri Nitin Sejpal, the learned counsel for the applicant and Shri Adsule, the learned A.P.P. for the State.

2. The applicant was convicted for the offence punishable under Sections 397 read with Section 34 of the I.P.C. and was sentenced to undergo R.I. for 7 years and to pay a fine of Rs.1,000/-. The applicant alongwith another convicted accused has preferred an criminal appeal no.810 of 2006. Appeal is admitted. By this application, the applicant, who is original accused no.1, seeks to be released on bail pending final hearing and disposal of the appeal.

3. Perused the relevant part of evidence. The offence of robbery was committed at a house on 21-7-2001 in a broad day light by 3 persons. On the next date, the present applicant was arrested and on the basis of information given by him, substantial stolen property consisting of gold and silver ornaments worth about Rs.1,50,000/- came to be recovered from one house. Property was found hidden in a cloth bag and in a flower pot of that house. The learned trial Court rejected identification of the accused person by giving reasons in detail but relied upon the recovery of stolen property and convicted the accused. Mr.Sejpal contends that the applicant was on bail during the trial and he has not misused the bail. He also contends that if bail is not granted, the applicant will be required to remain in jail for a long time till the decision of the appeal. According to Mr.Sejpal, the applicant may be guilty at the most for the offence of receiving stolen property. This argument may be considered at the time of final hearing only. In view of the fact that the offence was committed on 21st July, 2001, on the next date the applicant was arrested and on 24th July, 2001 property was recovered. At this stage, it is difficult to accept the contention that it could be the case of receiver of stolen property only and not of robbery. However, taking into consideration the circumstances in which

recovery was made from him almost immediately after the incident, I find that it will not be in the interest of justice to grant him bail.

4. For the aforesaid reasons, application stands rejected.

(J.H.Bhatia, J.)